

ANNOTATED SAMPLE FIRST NATION PROPERTY ASSESSMENT LAW (QUEBEC)

The *First Nations Fiscal Management Act* (“FMA”) provides a framework for First Nation real property taxation on reserve. First Nation fiscal powers are set out in Part 1 of the FMA and include, under section 5, the authority to make laws respecting taxation for local purposes of reserve lands and rights in reserve lands.

A First Nation wishing to implement property taxation will require two core laws, the assessment law and taxation law. These two laws work together to establish the property taxation framework. The assessment law creates the framework for conducting assessments of rights on reserve, including the duties of the assessor, the applicable assessment rules and practices, and the establishment and conduct of the Assessment Review Board.

Laws enacted under the FMA must comply with the legislative framework, which includes all requirements in the FMA, any regulations made under paragraph 36(1)(d) of the FMA and any standards established by the First Nations Tax Commission (“Commission”) under section 35 of the FMA. Canada has made *the First Nations Assessment Appeal Regulations* (“Assessment Appeal Regulations”) and the *First Nations Assessment Inspection Regulations* (“Assessment Inspection Regulations”). The Commission has established *Standards for First Nation Property Assessment Laws, 2019* (“Assessment Law Standards”) that provide further requirements for the form and content of assessment laws. The Commission has also established the *Standards for the Timing of First Nation Annual Tax Rates and Expenditure Laws, 2017* (“Timing Standards”).

The Commission prepares sample laws for use and adaptation by First Nations. The sample First Nation Property Assessment Law (“sample law”) complies with the legislative framework and provides a comprehensive assessment law that reflects assessment practices on reserve lands and incorporates components of the Quebec provincial assessment scheme where appropriate. It provides a best practices sample for use and adaptation by First Nations in drafting their own FMA assessment laws.

This annotation of the sample law provides explanatory and additional information on key aspects of the sample law, and is intended to assist First Nations in creating their own property taxation laws. This annotated law is not intended to provide legal advice or legal interpretation, and should not be relied upon as such.

FIRST NATION
PROPERTY ASSESSMENT LAW, 20__

(QUEBEC)

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EXPLANATORY NOTES & COMMENTS

The title of the law should include the name of the First Nation, and the year the First Nation will enact the law.

This indicates that the sample law has been created for First Nations located in Quebec. This wording should be deleted in the First Nation's law.

When the drafting is complete, ensure that all of the Part numbers and headings correspond to the actual Part numbers and the headings used in the law and that the corresponding page numbers are inserted.

When the drafting is complete, ensure that the Schedule numbers and names correspond to the numbers and names used in the law.

WHEREAS:

A. Pursuant to section 5 of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting taxation for local purposes of reserve lands and rights in reserve lands;

B. The Council of the _____ First Nation deems it to be in the best interests of the First Nation to make a law for such purposes; and

C. The Council of the _____ First Nation has given notice of this law and has considered any representations received by the Council, in accordance with the requirements of the *First Nations Fiscal Management Act*,

NOW THEREFORE the Council of the _____ First Nation duly enacts as follows:

These recitals are recommended in order to show the authority for the law and the fulfillment of notice requirements. Additional recitals can also be included as the First Nation determines appropriate.

The enactment clause is required in order to show Council's intention to enact the law.

**PART I
CITATION**

Citation

1. This Law may be cited as the _____ *First Nation Property Assessment Law, 20__*.

The citation includes the First Nation's name and the year the law is made by the First Nation. Proper citation of the law should be used when referencing it in documents, forms or other laws.

**PART II
DEFINITIONS AND REFERENCES**

The definitions used are the same as set out in the FMA, the *Indian Act*, the FMA Regulations and the First Nation's Taxation Law. Where terms are not defined in those enactments, additional definitions are included to assist in the interpretation of the law. All definitions in this law should be consistent in the First Nation's Taxation Law. When drafting is complete, any definitions that are not used in the law should be deleted.

Definitions and References

2.(1) In this Law:

“Act” means the *First Nations Fiscal Management Act*, S.C. 2005, c.9, and the regulations enacted under that Act;

“adjusted assessed value” means the assessed value of a right in reserve lands adjusted in accordance with subsections 5(9) to (13);

“assessable property” means a right in reserve lands that is liable to assessment under this Law;

This definition is used in provincial assessment legislation and therefore should remain consistent in this law.

This term is used in the Assessment Appeal Regulations and therefore should remain in this law.

“assessed value” means the actual value of a right in reserve lands, as determined under this Law;

This definition ensures that the assessor can determine the assessed value of each right in accordance with the provisions set out in the Law.

“assessment” means a valuation and classification of an interest in land;

“Assessment Notice” means a notice containing the information set out in Schedule IV;

Assessment Notices must contain the information set out in Schedule IV, but are not required to be in the exact form set out in that Schedule. [Assessment Law Standards](#) subsection 7.2.

“Assessment Review Board” means a board established by Council in accordance with Part IX;

“assessment roll” means a roll prepared pursuant to this Law, and includes any alterations to the assessment roll [and an assessment roll referenced in subsection 11(8)];

“assessor” means a person appointed by Council under subsection 3(1);

“chair” means the chair of the Assessment Review Board;

“complainant” means a person who commences an appeal of an assessment under this Law;

“Council” has the meaning given to that term in the Act;

This term is defined in the FMA and it therefore cannot be changed in this law.

“First Nation” means the _____ First Nation, being a band named in the schedule to the Act;

“holder”, in relation to a right in reserve lands, means a person

This term is used in this law, the Taxation Law and in Commission Standards and therefore should remain consistent in this law.

- (a) in possession of the right,
- (b) entitled through a lease, licence or other legal or contractual means to the right,
- (c) in de facto occupation of reserve lands, or any other immovable situated on reserve lands, or
- (d) who is a trustee of the right;

“immovable” means

This definition is used in the Taxation Law and references how this term is defined in Québec legislation.

- (a) an immovable within the meaning of article 900 of the *Civil Code of Québec*, and

(b) a movable that is permanently attached to an immovable referred to in paragraph (a);

and includes a building or structure that is erected or placed in, on, over or under land;

This clarifies that buildings and structures are to be included in an immovable.

“improvement” means any thing, other than land, that is included in the definition of “immovable”;

This definition is used in the Taxation Law and in Commission Standards and therefore should remain in this law. It is defined to have the same meaning as an immovable.

“movable” means a movable within the meaning of article 900 of the *Civil Code of Québec*;

“Notice of Appeal” means a notice containing the information set out in Schedule VI;

The Notice of Appeal must include the name and address of the complainant and any representative of the complainant, a description of the assessable property, and the grounds for the appeal. [Assessment Appeal Regulations](#) subsection 7(2).

“Notice of Hearing” means a notice containing the information set out in Schedule VIII;

“Notice of Withdrawal” means a notice containing the information set out in Schedule VII;

“Order to Attend/Produce Documents” means an order containing the information set out in Schedule IX;

“party” in respect of an appeal of an assessment under this Law, means the parties to an assessment appeal under section 35;

“person” means any person, and any group of persons or assets, such as a partnership, association or trust;

“property classes” means those categories of rights in reserve lands established in subsection 8(1) for the purposes of assessment and taxation;

The law uses the property classes established in the Province, where applicable.

“Province” means the province of Quebec;

“record” includes any type of medium that contains information;

This definition is consistent with the meaning of this term in provincial legislation.

“reserve” means a reserve of the First Nation within the meaning of the *Indian Act*;

Laws made under the FMA can apply only on the reserve lands of a First Nation, as that term is defined in the [Indian Act](#).

“resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting;

“right”, in relation to reserve lands, means any right of any nature in or to the lands, including any right to occupy, possess or use the lands and any right of a lessee, but does not include title to the lands that is held by her Majesty;

This term is defined in the FMA and it therefore cannot be changed in this law.

“secretary” means the secretary of the Assessment Review Board appointed under section 28;

“tax administrator” means the person appointed by Council to that position under the Taxation Law;

“Taxation Law” means the _____ *First Nation Property Taxation Law, 20__* ;

“taxation year” means the calendar year to which an assessment roll applies for the purposes of taxation; and

“taxes” includes

(a) all taxes imposed, levied, assessed or assessable under the Taxation Law, and all penalties, interest and costs added to taxes under the Taxation Law, and

(b) for the purposes of collection and enforcement, all taxes imposed, levied, assessed or assessable under any other local revenue law of the First Nation, and all penalties, interest and costs added to taxes under such a law.

(2) For greater certainty, a right, in relation to reserve lands, includes improvements.

(3) In this Law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)), paragraph (e.g. paragraph 5(3)(a)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this Law, except where otherwise stated.

PART III ADMINISTRATION

Assessor

3.(1) Council must appoint one or more assessors to undertake assessments of assessable property in accordance with this Law and such other duties as set out in this Law or as directed by Council.

The law must require Council to appoint an assessor to undertake assessments of assessable property and other specified duties. [Assessment Law Standards](#) paragraph 1(a).

(2) An assessor appointed by Council must be qualified to conduct assessments of real property in the Province and be a member of the Order of Chartered Appraisers.

The assessor must be qualified to assess real property for taxation purposes in the Province. [Assessment Law Standards](#) paragraph 1(b).

Application of Law

4.(1) This Law applies to all rights in reserve lands.

The law applies to all rights in reserve lands.

(2) Any provision of this Law that applies to a right in reserve lands also applies to a part of a right in reserve lands if only that part falls within the scope of the provision.

PART IV ASSESSMENT AND VALUATION

Assessment

5.(1) The assessor must assess all rights in reserve lands that are subject to taxation under the Taxation Law and all rights for which payments-in-lieu may be accepted by Council

The assessor is required to assess all rights subject to taxation, and all rights for which payments in lieu are made. The law could also require the assessment of non-taxable rights if the First Nation requires additional assessments.

(2) Where only part of the value of a right in reserve lands is subject to taxation under the Taxation Law, the assessor must set out the assessed value of that part of the right on the assessment roll.

Subsections 5(2) to (7) set out the basic rules for property assessment that parallel those in the Province. [Assessment Law Standards](#) subsection 4.1

(3) The assessor must enter a right in reserve lands on the assessment roll

(a) in the name of the holder of the right; or

(b) where the right does not include land, in the name of the holder or owner of the improvements that comprise the right.

(4) If the assessor does not know the name of a holder of a right in reserve lands, the assessor must note this on the assessment roll.

(5) If the holder of a right in reserve lands is deceased, the assessor must enter the right on the assessment roll in the name of the personal representative of the deceased holder.

(6) The assessor must, at least every nine (9) years, verify the accuracy of the data in the assessor's possession concerning each assessable property.

(7) A building must be entered on the assessment roll if it is, or is capable of, being occupied or used, or if two (2) years have elapsed from the beginning of the construction of the building, except where the work has stopped due to acts of God or other circumstances of *force majeure*.

(8) The First Nation may, by resolution, provide for the averaging of the variation of assessed values resulting from the coming into force of a new assessment roll and in such cases subsections (9) to (13) apply.

The First Nation can decide by resolution whether to apply averaging when a new assessment roll comes into force.

(9) Where the First Nation provides for averaging, every right in reserve lands whose assessed value entered on the assessment roll is, on the date the assessment roll comes into force, different from the assessed value on the same right on the assessment roll in force on the preceding day is eligible for averaging.

(10) For the purposes of subsection (9), an increase or decrease in the assessed value of a right in reserve lands that results from an alteration to the assessment roll under any of paragraphs 20(1) (f), (g), (h), (m) or (n) must not be taken into account unless a corresponding alteration was made to the preceding assessment roll.

(11) The averaging of the variation in the assessed value of an eligible right in reserve lands must be achieved by using an adjusted assessed value instead of the assessed value on the assessment roll, calculated as set out in subsection (12) and in accordance with the rules established in provincial legislation existing at the time of calculation.

(12) The adjusted assessed value is equal to, in the case of an increase, the sum of the values set out in paragraphs (a) and (b), and in the case of a decrease, to the difference obtained by subtracting the value set out in paragraph (b) from the value set out in paragraph (a), as follows:

- (a) the assessed value of the right in reserve lands on the day preceding the coming into force of the new assessment roll; and

(b) the value equal to one-third (1/3) or two-thirds (2/3), for the first year or the second taxation year, respectively, of the difference between the assessed value on the date the assessment roll comes into force and the assessed value on the assessment roll in force on the preceding day.

(13) For clarity, where the First Nation provides for averaging of assessed values under this section,

(a) the assessed value of the right in reserve lands remains unchanged; and

(b) the adjusted assessed value calculated in each taxation year is to be used solely for the purposes of taxation under the Taxation Law.

(14) Except as otherwise provided in this Law, for the purposes of assessing rights in reserve lands the assessor must use

(a) the valuation methods, rates, rules and formulas established under provincial assessment legislation existing at the time of assessment;

(b) the assessment rules and practices used by assessors in the Province for conducting assessments off the reserve.

The law must require the use of the valuation methods, rates, rules and formulae established under provincial assessment legislation, and the provincial assessment practices, except where otherwise provided in the law. [Assessment Law Standards](#) subsection 4.1.

Assessing Rights in Reserve Lands

6.(1) Each right in reserve lands entered on the assessment roll must be comprised of the greatest possible aggregate of rights that meet the following requirements:

(a) the parcel of land or the group of parcels of land is held by the same holder, or the same group of holders as an undivided right;

(b) the parcels of land are contiguous or would be contiguous if they were not separated by a watercourse, a thoroughfare or a public utility network;

(c) if the right is in use, it is used for a single primary purpose; and

This section sets out the rules for determining the assessable right in each case.

(d) the right can normally and in the short term be transferred only as one whole and not in parts, taking into account the most probable use that may be made of it.

(2) Where a right in reserve lands to be entered on the assessment roll does not include land, the requirements in paragraphs (1)(a) and (b) are met if the improvements are held or owned by the same holder or the same groups of holders in undivided ownership and if the improvements are situated on parcels of land that are contiguous or that would be contiguous if they were not separated by a watercourse, a thoroughfare or a public utility network.

Valuation

7.(1) The assessor must determine the assessed value of each right in reserve lands on the basis of its actual value and must enter the assessed value on the assessment roll.

This section sets out the rules for the assessor's determination of assessment value. The rules follow the provincial assessment rules.

(2) Except where otherwise provided, the assessor must assess a right in reserve lands at its actual value as if the holder held the full rights of ownership in that right off the reserve in the province of Quebec.

The actual value of a right is to be determined as if the full rights of ownership are held off reserve.

(3) The actual value of a right in reserve lands is its exchange value on the free and open market, being the price most likely to be paid at a sale by agreement made under the following circumstances:

(a) the vendor and the purchaser are willing, respectively, to sell and to purchase the right and are not compelled to do so; and

(b) the vendor and the purchaser are reasonably informed of the condition of the right, of the use that can likely be made of it and of conditions in the property market.

(4) Where a right in reserve lands is not likely to be sold by agreement, the assessor must determine the most likely sale price by taking into account the price the holder would be justified in paying and demanding if that person were both the purchaser and the vendor in the circumstances described in subsection (3)

(5) To determine the actual value of a right in reserve lands, the assessor must take into consideration the objective effect of any potential benefits or disadvantages the right may have on its most likely selling price.

(6) For the purposes of determining actual value under this section, the vendor is deemed to hold all of the rights of any holder, including a lessee or sub-lessee, in respect of a right in reserve lands.

(7) For the purposes of establishing the actual value under this section, the assessor must consider the

- (a) condition of the right in reserve lands,
- (b) property market conditions, and
- (c) most likely use of the right,

on July 1 of the second taxation year preceding the first of the taxation years for which the assessment roll is made.

(8) For the purposes of subsection (7), the condition of a right in reserve lands includes its physical condition, its economic and legal situation, subject to subsection (6), and its physical surroundings.

(9) For the purposes of determining market conditions under subsection (7), the assessor may consider information relating to transfers of ownership that have occurred before or after the date referenced in that subsection.

(10) Where an event referred to in paragraphs 20(1) (f), (g), (h), (m) or (n) occurs after the date referred to in subsection (7), the assessor must take into account the condition existing immediately after the event regardless of any change in the condition of the right in reserve lands arising from a cause other than the event referred to in this subsection, and the assessor must determine the most likely use in such a case to be the use inferred from the condition of the right.

The law must set the same valuation date of July 1 of the second taxation year preceding the first of the taxation years for which the assessment roll is made that is set in the Province. [Assessment Law Standards](#) subsection 2.1. The listed considerations reflect the provincial assessment approach.

(11) When preparing the assessment roll, the assessor must equilibrate the assessed values set out in the assessment roll by adjusting some or all of the assessed values in order to eliminate, to the extent possible, the differences between the proportions of the actual value represented by the assessed values entered on the assessment roll.

Property Classes

8.(1) Council hereby establishes the property classes established by the Province as property categories for provincial property assessment purposes, for the purposes of assessment under this Law and imposing taxes under the Taxation Law.

(2) The property classes established under subsection (1) are set out in Schedule I to this Law, and the assessor must use the corresponding provincial classification rules for each property category.

(3) The assessor must assess each right in reserve lands according to the property classes established under this Law.

(4) A right in reserve lands may belong to more than one property class, and, in such circumstances, the assessor must determine the portion of the right that falls within each property class and the assessed value of each portion.

The law must establish property classes for assessment and taxation purposes that are the same as those property classes established in the Province. [Assessment Law Standards](#) section 3.

The law must use the same classification rules as are applied in the Province. Schedule I sets out the property classes applicable in Quebec. [Assessment Law Standards](#) subsection 3.1.

Where a right includes two or more property classes, the assessor must create a split classification.

PART V REQUESTS FOR INFORMATION AND INSPECTIONS

Requests for Information

9.(1) The assessor may deliver a Request for Information containing the information set out in Schedule II, to a holder or a person who has disposed of assessable property, and that person must provide to the assessor, within fourteen (14) days from the date of delivery or a longer period as specified in the notice, information for any purpose related to the assessor's duties under this Law.

(2) The assessor may in all cases assess the assessable property based on the information available to him or her and is not bound by the information provided under subsection (1).

The assessor is given the authority to request information respecting an assessable property for any purpose related to the assessor's duties under this law.

Inspections

10.(1) The assessor may, in the performance of his or her duties, visit and examine any right in reserve lands between 8:00 a.m. and 9:00 p.m. from Monday to Saturday, except on holidays.

(2) The assessor must carry an identification card bearing his photograph and evidence that the assessor is the assessor of the First Nation, and must show it on request.

(3) Every holder or occupant of a right in reserve lands must produce or make available to the assessor any information respecting the right that the assessor requests in order to perform the assessment.

(4) As part of an inspection under this section, the assessor must be given access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals respecting the assessable property and the occupant must, on request, furnish every facility and assistance required for the entry and examination.

All inspections undertaken for assessment purposes must be conducted either in accordance with the procedures set out in the Assessment Inspection Regulations, or in accordance with procedures set out in provincial law. The First Nation should set out the procedures it will use in this Part of the law. The sample law sets out the provincial procedures. [Assessment Inspection Regulations](#) section 2.

PART VI

ASSESSMENT ROLL AND ASSESSMENT NOTICE

Assessment Roll

11.(1) The assessor must, every three (3) years, prepare a new assessment roll containing a list of every right in reserve lands that is liable to assessment under this Law.

(2) The assessor must

(a) complete the new assessment roll,

(b) certify in writing in substantially the form set out in Schedule X that the assessment roll was completed in accordance with the requirements of this Law, and

(c) deliver a copy of the certified assessment roll to Council,

on or after August 15 and no later than September 15 in the year preceding the first taxation year for which the assessment roll is made.

The law provides for the completion of an assessment roll every three years, which is consistent with the provincial cycle for assessments. [Assessment Law Standards](#) subsection 5.1.1.

The assessor must complete the assessment roll, certify that the roll was completed in accordance with the requirements in the law, and deliver the roll to Council, by the date set out in the law. The date for fulfilling these requirements is no later than September 15 in the year before the first year for which the roll is made. [Assessment Law Standards](#) subsection 5.2 and 5.3.

(3) If the assessor cannot complete and deliver the assessment roll before September 16, Council may by resolution fix a further deadline that is not later than November 1 in that year.

Council can extend the deadline for the assessment roll to not later than November 1.

(4) If the assessor does not complete and deliver the assessment roll in accordance with subsections (2) or (3),

These provisions provide for the use of the existing assessment roll where the roll is not completed as required.

(a) the assessment roll in force in the previous taxation year must become the assessment roll for the next taxation year; and

(b) the assessor must complete and deliver a new assessment roll for the next two (2) taxation years in accordance with subsection (2) or (3).

[Note to First Nation: The First Nation may wish to discuss subsection (5) with its assessor to determine whether additional information should be included on the assessment roll and in the assessment notices. Additional information can be added to subsection (5) and to the form of assessment notice set out in Schedule IV.]

(5) The assessment roll must be in paper or electronic form and must contain the following information in respect of each right in reserve lands:

This information must be included on the assessment roll. [Assessment Law Standards](#) subsection 5.3.

(a) the name and last known address of the holder of the right;

(b) a short description of the right;

(c) the area of the land comprising the right;

(d) the classification of the right;

(e) the assessed value by classification of the right;

(f) the total assessed value of the right;

(g) the net assessed value of the right subject to taxation under the Taxation Law; and

(h) any other information the assessor considers necessary or desirable.

(6) The assessment roll comes into force at the beginning of the first taxation year for which it is made and applies for that year and the next two (2) consecutive taxation years.

The assessment roll applies for three taxation years.

(7) Between certification of the assessment roll and the coming into force of the assessment roll, it may be used to fix any tax rate, prepare any budget and take any other steps that must or may be taken in advance respecting the taxation year for which the assessment roll is made.

[Note to First Nation: Include this language only if this law is repealing and replacing an existing property assessment law.

(8) For greater certainty, an assessment roll prepared under the enactment repealed by section 60 is and continues to be an assessment roll under this Law and must be used until such time as the next assessment roll is prepared and certified in accordance with this Law.]

Alterations to Assessment Roll

12.(1) Where the assessor alters the assessment roll under section 19, 20 or 21, or alters the assessment roll to reflect reconsideration decisions, the assessor must

- (a) make the alteration by means of a certificate signed and dated by the assessor;
- (b) initial the alterations made to the assessment roll; and
- (c) deliver the certificate and a copy of the altered assessment roll to Council.

(2) Where the assessment roll is altered under this Law, the alterations are an integral part of the assessment roll and are deemed to be effective as set out in sections 19, 20 and 21 as applicable.

(3) The assessor must not alter the assessment of an assessable property contrary to a decision of the Assessment Review Board or a court of competent jurisdiction in respect of that assessable property.

Validity of Assessment Roll

13. An assessment roll is effective from the time it comes into force and, unless altered in accordance with this Law, by a decision of the Assessment Review Board or by an order of a court of competent jurisdiction, is

For First Nations whose laws are replacing transitioned section 83 assessment by-laws, subsection 11(8) should be included to clarify that an assessment roll made under the previous law is valid.

This section sets out the process for the assessor to alter the assessment roll and deliver the altered roll to Council where alterations are made in accordance with this law.

The altered assessment roll replaces the assessment roll previously certified and delivered to Council.

This provision provides for the validity of the assessment roll, despite any errors, omissions or defects.

(a) valid and binding on all parties concerned, despite any

(i) omission, defect or error committed in, or with respect to, the assessment roll,

(ii) defect, error or misstatement in any notice required, or

(iii) omission to mail any notice required;

(b) for all purposes, the assessment roll of the First Nation until the next certified assessment roll comes into force; and

(c) remains in force for any taxation year for which it is made, even if it is the subject of an application for review, a proceeding before the Assessment Review Board, a proposal for alteration or a petition to have it set aside or quashed.

The assessment roll remains the First Nation's assessment roll until replaced by the next certified assessment roll.

Ownership, Inspection and Use of Assessment Roll

14.(1) The assessment roll is the property of the First Nation.

(2) On receipt by Council, the assessment roll is open to inspection in the First Nation office by any person during regular business hours.

The law must provide for the assessment roll to be available for inspection by any person. [Assessment Law Standards](#) paragraph 5.4(c).

[Note to First Nation: If the First Nation allows the assessment roll to be accessed online, consider including an additional provision that provides for that access, such as:

Some assessment service providers offer electronic access to assessment roll information. Including this provision enables First Nations to offer similar services to their taxpayers.

In addition to inspection under subsection (2), Council may allow the assessment roll to be inspected electronically through an online service, provided that the information available online does not include any names or other identifying information about a holder or other person.]

(3) A person must not, directly or indirectly, use the assessment roll or information contained in the assessment roll to

The law must include a prohibition on using information in an assessment roll for solicitation purposes. [Assessment Law Standards](#) paragraph 5.4(d).

(a) obtain names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail or any other means; or

(b) harass an individual.

(4) The assessor [tax administrator] may require a person who wishes to inspect the assessment roll to complete a declaration in substantially the form set out in Schedule III

(a) specifying the purpose for which the information is to be used; and

(b) certifying that the information contained in the assessment roll will not be used in a manner prohibited under this section.

Protection of Privacy in Assessment Roll

15.(1) On application by a holder, the tax administrator may omit or obscure the holder's name, address or other information about the holder that would ordinarily be included in an assessment roll if, in the tax administrator's opinion, the inclusion of the name, address or other information could reasonably be expected to threaten the safety or mental or physical health of the holder or a member of the holder's household.

(2) Where the tax administrator omits or obscures information under subsection (1), such information must be obscured from all assessment rolls that are available for public inspection under subsection 14(2) or are otherwise accessible to the public.

Registered Security Holders

16.(1) Any person holding a registered interest, prior claim or hypothec on assessable property may, at any time, give notice, with full particulars of the nature, extent and duration of the registered interest, prior claim or hypothec, to the assessor and request that his or her name be added to the assessment roll in respect of that assessable property for the duration of the registered interest, prior claim or hypothec.

(2) On receipt of a notice and request under this section, the assessor must enter the person's name and address on the assessment roll and provide copies of all assessment notices issued in respect of the assessable property.

Assessment Notice

The law must include a procedure where holders can apply to have their personal information omitted or obscured from any assessment roll available for public inspection. [Assessment Law Standards](#) paragraph 5.4(e).

This section allows holders of a prior charge or hypothec to have their names added to the assessment roll in respect of an assessable property.

Once the holder of a prior charge or hypothec has been added to the roll, they will receive copies of all assessment notices sent in respect of the assessable property.

17.(1) The assessor must, on or before March 1 of the first taxation year for which the assessment roll is made, mail an Assessment Notice to every person named in the assessment roll in respect of each assessable property, at the person's address on the assessment roll.

(2) Where requested by the recipient, an Assessment Notice may be e-mailed to a person named on the assessment roll, and the Assessment Notice is deemed to have been delivered on the date that the e-mail is sent by the assessor.

(3) A person whose name appears in the assessment roll must give written notice to the assessor of any change of address.

(4) Any number of rights in reserve lands assessed in the name of the same holder may be included in one Assessment Notice.

(5) Where more than one (1) holder is entered on the assessment roll in respect of an assessable property, the assessor may mail the Assessment Notice to only one of them, indicating that it is intended for the addressee and for the other holders.

(6) Subject to subsection 14(3) and subsection (7), the assessor must provide, to any person who requests it and pays to the assessor the fee of six dollars (\$6), the information contained in the current Assessment Notice sent by the assessor.

(7) Where information has been omitted or obscured under subsection 15(1), the assessor must omit that information from a notice provided under subsection (6).

Advance Assessment Information for Certain Properties

18.(1) The assessor may, for rights in reserve lands meeting the criteria established by the *Regulation respecting the method of assessment of single-use immovables of an industrial or institutional nature*, F-2.1, r. 8, give notice by registered mail to every holder named in the assessment roll in respect of each such assessable property, at the person's address on the assessment roll.

(2) The notice under subsection (1) must, in respect of each right in reserve lands.

The law must provide for assessment notices to be delivered to all persons named on the assessment roll in respect of an assessable property. [Assessment Law Standards](#) subsection 7.1.

The law may include a provision for assessment notices to be e-mailed.

This section includes the provincial process for assessing certain single-use industrial or institutional rights. This First Nation may choose to not include these provisions. If included, the assessor decides whether to implement this approach.

(a) be mailed on or before September 1 of the second year preceding the first taxation year for which the assessment roll is made;

(b) state that this section applies to the right;

(c) set out the method of assessment that applies to the right; and

(d) advise the holder of the right of the process set out in subsections (3) through (8).

(3) No later than February 15 of the year preceding the first taxation year for which the assessment roll is made, the assessor must communicate to the holder by registered mail

(a) the cost of improvements that are part of the right in reserve lands, and;

(b) the depreciation that the assessor subtracts from that cost,

determined in accordance with the regulation referenced in subsection (1).

(4) If a holder disagrees with any aspect of the information communicated by the assessor under subsection (3), the holder must, before June 1 in the same year, communicate with the assessor by registered mail the holder's information respecting the cost of the improvements and the depreciation amount that the holder wishes to have acknowledged by the assessor

(5) If a holder does not communicate with the assessor in accordance with subsection (4), only the information provided by the assessor under subsection (3) must be used by the assessor for the purposes of determining the assessed value of the improvements referenced in the notice.

(6) Where the holder has given notice under subsection (4), the following rules apply for determining the assessed value of the improvements:

(a) the assessor cannot determine a cost greater than that communicated, or subtract an amount less than the amount specified, in the assessor's communication under subsection (3); and

(b) the holder cannot, from the assessor or in an appeal to the Assessment Review Board, seek a cost that is less than that communicated, or an amount greater than that specified, by the holder under subsection (4).

(7) Subsection (6) does not apply where an event referred to in subsection 7(10) occurs.

(8) Before delivering the assessment roll to Council under section 11, the assessor must meet with the holder of a right in reserve lands given a notice under this section, where the holder requests such a meeting by registered mail before June 1 of the year preceding the first taxation year for which the assessment roll is made.

PART VII ALTERING THE ASSESSMENT ROLL

Alteration by Assessor

19.(1) After the certification of the assessment roll under section 11 and before the following May 1, the assessor may propose to a holder of a right in reserve lands that the entry of that right on the assessment roll be altered or struck out, or that an entry be added to the assessment roll in respect of the right.

(2) A proposal under subsection (1) must be made by giving written notice to the First Nation, the holder and to every person named on the assessment roll in respect of the right in reserve lands, stating the proposed alteration and the right to appeal the proposed alteration as set out in subsection (3).

(3) A person referred to in subsection (2) may appeal an assessor's proposal under subsection (1) to the Assessment Review Board by delivering

- (a) a completed Notice of Appeal,
- (b) a copy of the notice given under subsection (2), and
- (c) an administration fee of thirty dollars (\$30),

The law must include procedures for the correction by the assessor of errors and omissions in the assessment roll. [Assessment Law Standards](#) section 6. The procedures in this Part follow the procedures set out in the Quebec [Act Respecting Municipal Taxation](#).

This section enables alterations to the assessment roll after it is certified, but before the following May 1. The assessor must make a proposal respecting the alteration to the holder of the right and to all others named on the roll. The notice triggers a right to appeal the proposal to the Assessment Review Board.

to the assessor within forty-five (45) days after the date on which the notice was given in respect of the right in reserve lands, and Part X applies to that appeal.

(4) If a Notice of Appeal is not given in accordance with subsection (3), the assessor must alter the assessment roll in accordance with the proposal under subsection (1).

(5) The assessor may, with the written consent of all persons referred to in subsection (2), alter the assessment roll in accordance with a proposal under subsection (1), before the expiry of the time set out in subsection (3).

(6) Except as provided in subsection (7), the assessor must not propose an alteration to the assessment roll in respect of a right in reserve lands that is the subject of a request for reconsideration or an appeal before the Assessment Review Board.

(7) If an appeal is withdrawn before the Assessment Review Board makes a decision, the assessor may, within sixty (60) days of the withdrawal, propose a correction to an assessment in accordance with this section.

(8) Except as set out in this section, the assessor must not propose an alteration to the assessment roll that the assessor must make under section 20.

(9) Where the assessment roll is altered under this section, the assessor must mail a new Assessment Notice to every person named in the assessment roll in respect of the right in reserve lands affected.

(10) Notwithstanding subsection (3), no request for a reconsideration may be made, and no appeal may be filed, in respect of an alteration made under this section after the day on which the assessor alters the assessment roll under subsection (4) or subsection (5).

Keeping the Assessment Roll Up to Date

20.(1) The assessor must alter the assessment roll to

(a) make it consistent with a proposal as provided in section 19;

If a notice of appeal is not given respecting the proposal, the assessor must then alter the roll in accordance with the proposal.

The assessor may also alter the roll by obtaining the consent of all persons named on the roll in respect of the affected right.

When an assessment is altered, the assessor must mail a new assessment notice to every person named on the roll in respect of the right affected.

This section requires the assessor to keep the roll up to date by altering the roll in specified circumstances.

- (b) replace an entry quashed or set aside by a court of competent jurisdiction, to the extent that the court has not prescribed the content of the new entry and has not quashed the entire assessment roll or set the whole of it aside;
- (c) give effect to a change in the holder of a right in reserve lands;
- (d) enter a right in reserve lands improperly omitted, or remove a right improperly included;
- (e) indicate that a right in reserve lands is in part, not taxable, if that indication has been improperly omitted, or to remove such an indication if improperly entered;
- (f) indicate a decrease in the assessed value of a right in reserve lands which results from a fire, or the destruction, demolition or disappearance of all or part of any improvements on the right;
- (g) indicate an increase in the assessed value of a right in reserve lands resulting from the completion or deemed completion of a building as set out in subsection 5(7);
- (h) reflect that a right in reserve lands has ceased to be taxable, or that a right not entered on the assessment roll has become taxable;
- (i) reflect that a portion of the value of a right in reserve lands has ceased to be taxable or has become taxable, or that the non-taxable portion of the value has increased or decreased;
- (j) reflect a change to the description of a right in reserve lands, including resulting from a subdivision or consolidation of the right;
- (k) reflect a change in the property class of the right in reserve lands;
- (l) correct a clerical error, a miscalculation or any other material error;
- (m) indicate an increase or decrease in the assessed value of a right in reserve lands due to the fact that water or sewer services become or cease to be available to service the right; and

(n) reflect an increase or decrease in the assessed value of a right in reserve lands resulting from the imposition or removal of a legal restriction on the use of the right.

(2) Despite subsection 7(7), the assessor must alter the assessment roll where an event referred to in subsection (1) occurred before July 1 of the second taxation year preceding the taxation year during which the assessment roll first applies, where the assessment roll does not reflect the condition of the assessable property on that date.

(3) For the purposes of subsection (1), the assessor must make a required alteration to the assessment roll even where the reason for the alteration did not exist at the time of the assessment roll was made or was unknown to the assessor.

(4) Where necessary to comply with subsection (1), the assessor must make a new assessment for a right in reserve lands as set out in this Law.

(5) Alterations made under this section take effect as follows:

This subsection sets out the effective dates for different types of alterations to the roll.

(a) those in paragraphs (1)(a) and (b) take effect from the day the assessment roll came into force;

(b) those in paragraphs (1)(d) and (e) have effect for the taxation year during which the alteration is made, and for the preceding taxation year if the assessment roll for that taxation year contained the same error;

(c) those in paragraphs other than paragraphs (1)(a), (b), (d) and (e) take effect from the date the alteration is made by the assessor, which must not precede the later of

(i) the date on which the event occurred that is the reason for the alteration, and

(ii) the first day of the taxation year preceding the taxation year during which the alteration is made.

(6) Where an alteration under this section takes effect from a date preceding the coming into force of the current assessment roll, the assessor must alter the assessment roll in force on that date by means of a separate certificate signed by the assessor.

(7) Where an assessment is altered under this section, the assessor must mail a new Assessment Notice to the First Nation and to every person named in the assessment roll in respect of the right in reserve lands affected, stating the alteration and the right to appeal the alteration as set out in subsection (8).

(8) Any person may appeal an alteration under this section, other than an alteration under paragraph (1)(a), to the Assessment Review Board by delivering

- (a) a completed Notice of Appeal,
- (b) a copy of the notice given under subsection (7), and
- (c) an administration fee of thirty dollars (\$30),

to the assessor within forty-five (45) days after the date on which the new Assessment Notice was given in respect of the right in reserve lands, and Part X applies to that appeal

(9) An appeal under subsection (8) may only be in respect of that aspect of the assessment altered under this section.

(10) Where a person believes that an assessor should have made an alteration to an assessment under this section but has not done so, that person may appeal the alleged failure to alter the assessment for that right in reserve lands to the Assessment Review Board by delivering a Notice of Appeal under Part X at any time during the course of the current or subsequent calendar year.

Alteration to Comply

21.(1) The assessor must alter the assessment roll to make it comply

- (a) with a decision of the Assessment Review Board, as soon as possible after the decision becomes executory; and
- (b) with a judgment of a court of competent jurisdiction, as soon as possible after the judgment takes effect, unless the judgment quashes or sets aside the whole assessment roll.

When an assessment is altered under this section, the assessor must mail a new assessment notice to every person named on the roll in respect of the right. The notice must indicate the right to appeal the alteration.

Alterations under this section may be appealed to the Assessment Review Board, except an alteration under paragraph (1)(a).

The law must include procedures for updating the assessment roll to reflect decisions of the Assessment Review Board or a court. [Assessment Law Standards](#) subsection 10.5.

(2) An alteration made under subsection (1) has effect from the date fixed in the decision or judgment, or, failing that, from the date of coming into force of the assessment roll.

(3) Where an assessment is altered under this section, the assessor must mail a new Assessment Notice to the First Nation and to every person named in the assessment roll in respect of the right in reserve lands affected, stating the alteration and stating that no request for a reconsideration and no appeal may be made in respect of the altered assessment.

When an assessment is altered, the assessor must mail a new assessment notice to every person named on the roll in respect of the right. The notice must indicate that there is no right of appeal.

Assessment Roll Quashed or Set Aside

22.(1) If the assessment roll is quashed or set aside as a whole by a court of competent jurisdiction, the assessor must prepare a new assessment roll in accordance with this Law.

This section provides for the preparation of a new assessment roll if the roll is quashed or set aside.

(2) A new assessment roll comes into force on the day it is delivered to Council in accordance with section 11.

(3) In the interval between the date the assessment roll is quashed or set aside and a new assessment roll is prepared, the preceding assessment roll must be the assessment roll in force under this Law.

(4) Every provision of this Law applies to a new assessment roll under this section, with the following adaptations:

(a) the new assessment roll must set out what the quashed or set aside assessment roll should have contained and the alterations made to that assessment roll that became effective after its coming into force must be noted in the new assessment roll with indications of the dates on which the alterations became effective;

(b) new Assessment Notices must be mailed [or e-mailed] within thirty (30) days after the coming into force of the new assessment roll, in accordance with section 17;

(c) appeals must be made within forty-five (45) days after the date new Assessment Notices are mailed [or e-mailed], and a proposal for correction under section 19 may be made until the end of that forty-five (45) day period; and

(d) any application to quash or set aside the new assessment roll or an entry on that assessment roll must be made within three (3) months or one (1) year, respectively, of the coming into force of the new assessment roll.

PART VIII

RECONSIDERATION OF ASSESSMENT

Reconsideration by Assessor

23.(1) A person named on the assessment roll in respect of an assessable property may request that the assessor reconsider the assessment of that assessable property.

(2) A request for reconsideration may be made on one or more of the grounds on which an assessment appeal may be made under this Law.

(3) A request for reconsideration of an assessment must

(a) be delivered to the assessor within twenty-one (21) days after the day that an Assessment Notice is mailed [or e-mailed] to the person named on the assessment roll in respect of an assessable property, including an Assessment Notice given under section 20 and 21;

(b) be made in writing and include the information set out in Schedule V; and

(c) include any reasons in support of the request.

(4) The assessor must, no later than twenty-one (21) days after the end of the twenty-one (21) day period referenced in paragraph (3)(a), consider the request for reconsideration and advise the person who requested the reconsideration that

The law must include a reconsideration procedure under which a person named on the assessment roll may request that the assessor reconsider the assessment of that right. [Assessment Appeal Regulations](#) section 3 and [Assessment Law Standards](#) section 8.

The law must give the requester at least twenty-one days from the delivery of the assessment notice to make a request.

The assessor must complete the reconsideration within twenty-one days after the end of the period given to make a request for reconsideration. The law can provide for a longer timeframe; however, the entire process must be completed before the appeal deadline.

(a) that the assessor confirms the assessment; or

If the assessor does not agree that the assessable property should have been assessed differently, the assessor must advise the requester that the assessor confirms the assessment.

(b) the assessor has determined that the assessable property should have been assessed differently, and that the assessor offers to modify the assessment.

If the assessor agrees that the assessable property should have been assessed differently, the assessor offers to modify the assessment.

(5) Where the person who requested the reconsideration agrees with the modification proposed by the assessor, the assessor must

If the requester agrees with the proposed modification, the assessor alters the assessment roll and gives notice of the alteration.

(a) alter the assessment roll as necessary to reflect the modified assessment;

(b) give notice of the altered assessment to the tax administrator and to all other persons who received the Assessment Notice in respect of the assessable property; and

If the assessment is amended, the assessor must send amended assessment notices to all persons who received the original assessment notice for the right.

(c) where a Notice of Appeal has been delivered in respect of the assessable property, advise the Assessment Review Board of the modification.

(6) For clarity, nothing in this Part requires a person to request a reconsideration of an assessment, and a person may appeal an assessment under Part X without first requesting a reconsideration.

(7) Where the person who requested the reconsideration accepts an offer to modify an assessment, that person must not appeal the modified assessment and must withdraw any Notice of Appeal filed in respect of the assessable property.

The requester must withdraw any appeal filed in respect of the assessment.

PART IX

ASSESSMENT REVIEW BOARD

Council to Establish Assessment Review Board

This Part incorporates the procedures set out in the Assessment Appeal Regulations. The law must include an appeal procedure in respect of assessments. The law must incorporate either the appeal procedures set out in the Assessment Appeal Regulations, or assessment appeal procedures that are the same as those set out in the Province. [FMA](#) subsection 5(4). [Assessment Appeal Regulations](#) section 2.

24.(1) Council must, by resolution, establish an Assessment Review Board to hear and determine assessment appeals under this Law.

Council must establish an Assessment Review Board. [FMA](#) subsection 5(4).

(2) The Assessment Review Board must consist of not less than three (3) members, including at least one (1) member who is a practising or non-practising member in good standing of the law society of the Province and at least one (1) member who has experience in assessment appeals in the Province.

[Note to First Nation: The First Nation can choose to require the appointment of a member who is also a member of the First Nation, with the following wording:

(3) The Assessment Review Board must consist of at least one (1) member who is a member of the First Nation but not a member of Council.]

(4) Each member of the Assessment Review Board must hold office for a period of three (3) years unless the member resigns or is removed from office in accordance with this Law.

(5) If a member of the Assessment Review Board is absent, disqualified, unable or unwilling to act, Council may appoint another person, who would otherwise be qualified for appointment as a member, to replace the member until the member returns to duty or the member's term expires, whichever comes first.

Remuneration and Reimbursement

[Note to First Nation: The sample wording below provides for three levels of remuneration. The chair is paid the highest rate, members who are lawyers or have assessment experience are paid a middle rate, and members without those qualifications are paid a lower rate. First Nations can choose to implement these three levels, or can choose to have two levels of remuneration, one for the chair and one for other members.]

- 25.(1)** The First Nation must remunerate
- (a) the chair (or acting chair) at a rate of _____ dollars (\$_____) per hour [or day],
 - (b) a member (or replacement member appointed to act), other than the chair, who meets the criteria set out in subsection 24(2), at a rate of _____ dollars (\$_____) per hour [or day], and

The Assessment Review Board must have at least three members, at least one of whom is a member of the provincial law society, and one who has experience in assessment appeals. [Assessment Appeal Regulations](#) section 5.

If the law does not include this wording, Council still has the ability to appoint First Nation members to the Assessment Review Board.

The law must fix the term of office for Assessment Review Board members. The term must be at least two years. [FMA](#) subsection 5(4) and [Assessment Law Standards](#) paragraph 10.1(b).

The law must set out the remuneration that will be paid to members of the Assessment Review Board. [FMA](#) subsection 5(4). The First Nation must amend the law if it wishes to make changes to the rates.

(c) a member (or replacement member appointed to act), other than those referenced in paragraphs (a) and (b), at a rate of _____ dollars (\$_____) per hour [or day],

for time spent on activities related to the Assessment Review Board.

(2) The First Nation must reimburse a member of the Assessment Review Board [and a replacement member] for reasonable travel and out of pocket expenses necessarily incurred in carrying out his or her duties.

Conflicts of Interest

26.(1) A person must not serve as a member of the Assessment Review Board if the person

(a) has a personal or financial interest in the assessable property that is the subject of an appeal;

(b) is the Chief of the First Nation or a member of Council;

(c) is an employee of the First Nation; or

(d) has financial dealings with the First Nation, which might reasonably give rise to a conflict of interest or impair that person's ability to deal fairly and impartially with an appeal, as required under the terms of this Law.

(2) For the purposes of paragraph (1)(a), membership in the First Nation does not in itself constitute a personal or financial interest in assessable property.

Appointment of Chair

27.(1) Council must, by resolution, appoint one of the members of the Assessment Review Board as chair.

(2) The chair must

(a) supervise and direct the work of the Assessment Review Board;

The law must include a conflict of interest provision in accordance with the Regulations. [Assessment Appeal Regulations](#) subsection 5(3).

The law must provide for the appointment of a chair of the Assessment Review Board. [Assessment Appeal Regulations](#) subsection 5(1).

The law must set out the chair's powers, duties and functions. At minimum, the chair would typically be responsible for chairing appeal proceedings, administering oaths and directing the work of the Assessment Review Board. [Assessment Law Standards](#) paragraph 10.1(a).

(b) undertake administrative duties as necessary to oversee and implement the work of the Assessment Review Board;

(c) determine procedures to be followed at hearings consistent with this Law;

(d) administer an oath or solemn affirmation to a person or witness before his or her evidence is taken; and

(e) preside at hearings of the Assessment Review Board.

(3) If the chair is absent or incapacitated, Council must designate a member of the Assessment Review Board as the acting chair for the period that the chair is absent or incapacitated.

Appointment of Secretary

28.(1) Council must, by resolution, appoint a secretary of the Assessment Review Board.

This section provides for Council to appoint a secretary to the Assessment Review Board.

(2) The secretary of the Assessment Review Board must

Providing for the appointment of a secretary is optional; however, if there is no secretary the First Nation may wish to assign these responsibilities to someone else, such as the chair or a staff person.

(a) have the custody and care of all records, documents, orders and decisions made by or pertaining to the Assessment Review Board; and

(b) fulfill such other duties as directed by the chair and the Assessment Review Board.

Removal of Member

29. Council may terminate the appointment of a member of the Assessment Review Board for cause, including where a member

The law must set out when and how members may be removed from office. [Assessment Law Standards](#) paragraph 10.1(c).

(a) is convicted of an offence under the *Criminal Code*;

(b) fails to attend three (3) consecutive hearings of the Assessment Review Board; or

(c) fails to perform any of his or her duties under this Law in good faith and in accordance with the terms of this Law.

Duty of Member

30. In performing their duties under this Law, the members of the Assessment Review Board must act faithfully, honestly and impartially and to the best of their skill and ability, and must not disclose to any person information obtained by them as a member, except in the proper performance of their duties.

This section requires Assessment Review Board members to act faithfully, honestly and impartially in performing their duties.

PART X

APPEAL TO ASSESSMENT REVIEW BOARD

Appeals

31. The Assessment Review Board must hear and determine appeals made under this Part.

This Part sets out the procedures and requirements for appeals to the Assessment Review Board. The Assessment Appeal Regulations set out detailed procedures that are incorporated in this sample law. [Assessment Appeal Regulations](#).

Notice of Appeal

32.(1) Any person, including without limitation the First Nation and the assessor, may appeal an assessment or a reconsideration of an assessment of assessable property to the Assessment Review Board by delivering

An appeal is commenced by submitting a Notice of Appeal to the assessor.

- (a) a completed Notice of Appeal,
- (b) a copy of the Assessment Notice, and
- (c) an administration fee of thirty dollars (\$30),

If a fee is charged to initiate an appeal it must not exceed thirty dollars (\$30). [Assessment Law Standards](#) subsection 9.2.

to the assessor within forty-five (45) days after the date on which the Assessment Notice was mailed [or e-mailed] to the persons named on the assessment roll in respect of the assessable property.

The law must provide a period of not less than forty-five days after the date the assessment notice is mailed to the person named on the assessment roll. [Assessment Appeal Regulations](#) section 6.

(2) An appeal is commenced by delivery of a completed Notice of Appeal, a copy of the assessment notice, and the required administration fee to the assessor at the address set out in the Assessment Notice.

(3) The grounds for an appeal may be in respect of one or more of the following:

The law must allow an appeal on at least the grounds set out in paragraphs 32(3)(a) to (d). Paragraph (e) is optional. [Assessment Law Standards](#) subsection 9.1.

- (a) the assessed value of the assessable property;
- (b) the assessment classification of the assessable property;
- (c) the applicability of an exemption to the assessable property;

(d) any alleged error or omission in an assessment, an entry on the assessment roll or an Assessment Notice; and

(e) the liability of the holder to taxation under the Taxation Law.

Agents and Solicitors

33. Where a complainant is represented in an appeal through a solicitor or agent, all notices and correspondence required to be given to the complainant are properly given if delivered to the solicitor or agent at the address set out in the Notice of Appeal.

Scheduling of Hearing

34.(1) On delivery of a Notice of Appeal to the assessor, the chair must, in consultation with the assessor, schedule a hearing of the appeal.

The chair sets a hearing date, in consultation with the assessor, and delivers a written notice of the date, time and place of the hearing at least ten days before the hearing date. [Assessment Appeal Regulations](#) subsection 8(1).

(2) The chair must, at least ten (10) days before the hearing, deliver a Notice of Hearing setting out the date, time and place of the hearing, to the parties and to each person named on the assessment roll in respect of the assessable property.

Parties

35. The parties in a hearing are

- (a) the complainant;
- (b) the holder of the assessable property, if not the complainant;
- (c) the assessor; and
- (d) any person who the Assessment Review Board determines may be directly affected by the appeal, upon request by that person.

The parties are entitled to notices and to be heard and represented at a hearing. At a minimum, the complainant, the assessor and the holder of the right are parties to an appeal. [Assessment Law Standards](#) subsection 10.4.

Delivery of Documentation

36.(1) The chair must, without delay, deliver a copy of any document submitted by a party in relation to an appeal to all other parties.

The assessor is required to deliver all documents submitted by a party to all other parties to the appeal. [Assessment Appeal Regulations](#) section 11.

- (2) The chair may, in respect of an appeal,
 - (a) require the assessor to provide any relevant document or record obtained or created in respect

of an assessment that is in the custody or control of the assessor, subject to privilege;

(b) require a party to provide relevant documents and records in advance of a hearing.

Timing for Hearing

37. Subject to section 49, the Assessment Review Board must commence a hearing within forty-five (45) days after delivery of the Notice of Appeal to the assessor unless all parties consent to a delay.

The Assessment Review Board must commence a hearing within forty-five days of a notice of appeal, except where all parties consent to a later date or where there is a court proceeding that relates to the appeal. [Assessment Appeal Regulations](#) subsection 8(2).

Daily Schedule

38.(1) The chair must

(a) create a daily schedule for the hearings of the Assessment Review Board; and

(b) post the daily schedule at the place where the Assessment Review Board is to meet.

(2) The Assessment Review Board must proceed to deal with appeals in accordance with the daily schedule, unless the Assessment Review Board considers a change in the schedule necessary and desirable in the circumstances.

Conduct of Hearing

39.(1) The Assessment Review Board must give all parties a reasonable opportunity to be heard at a hearing.

(2) A party may be represented by counsel and may make submissions as to facts, law and jurisdiction.

(3) The Assessment Review Board may conduct a hearing whether the complainant is present or not, provided the complainant was given notice of the hearing in accordance with this Law.

(4) The burden of proof in an appeal is on the person bringing the appeal.

(5) In an oral hearing, a party may call and examine witnesses, present evidence and submissions and conduct cross-examination of witnesses as reasonably required by the Assessment Review Board for a full and fair disclosure of all matters

The law must establish the practices and procedures for the conduct of the Assessment Review Board. The procedures set out in this section reflect best practices. [Assessment Law Standards](#) subsection 10.2.

relevant to the issues in the appeal.

(6) The Assessment Review Board may reasonably limit further examination or cross-examination of a witness if it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the appeal.

(7) The Assessment Review Board may question any witness who gives oral evidence at a hearing.

(8) The Assessment Review Board may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

(9) The Assessment Review Board may conduct a hearing by any or a combination of written, electronic and oral means.

(10) An oral hearing must be open to the public unless the Assessment Review Board, on application by a party, determines that the hearing should be held *in camera*.

Maintaining Order at Hearings

40.(1) The Assessment Review Board may, at an oral hearing, make orders or give directions that it considers necessary to maintain order at the hearing.

(2) Without limiting subsection (1), the Assessment Review Board may, by order, impose restrictions on a person's continued participation in or attendance at a hearing and may exclude a person from further participation in or attendance at a hearing until the Assessment Review Board orders otherwise.

Summary Dismissal

41.(1) At any time after a Notice of Appeal is received by the Assessment Review Board, the Assessment Review Board may dismiss all or part of the appeal where it determines that any of the following apply:

(a) the appeal is not within the jurisdiction of the Assessment Review Board;

These provisions give the Assessment Review Board the power to make orders during the hearing to ensure that the hearing can proceed in an orderly manner.

This section provides for the summary dismissal of an appeal in specified situations. These provisions are not required; however, it may be helpful for the Assessment Review Board to have the ability to dismiss an appeal in certain situations.

(b) the appeal was not filed within the applicable time limit; or

(c) the complainant failed to diligently pursue the appeal or failed to comply with an order of the Assessment Review Board.

(2) Before dismissing all or part of an appeal under subsection (1), the Assessment Review Board must give the complainant an opportunity to make submissions to the Assessment Review Board.

(3) The Assessment Review Board must give written reasons for any dismissal made under subsection (1) to all parties.

Quorum

42.(1) A majority of the members of the Assessment Review Board constitutes a quorum, provided that there must not be less than three (3) members present at any time.

The law must indicate the quorum required for the Assessment Review Board to conduct a hearing. Where the Assessment Review Board has only three members, all three members must be present for the hearing.

(2) Where a quorum of the members of an Assessment Review Board is not present at the time at which a hearing is to be held, the hearing must be adjourned to the next day that is not a holiday, and so on from day to day until there is a quorum.

Decisions

43. A decision of the majority of the members is a decision of the Assessment Review Board and, in the case of a tie, the decision of the chair governs.

Combining Hearings

44. The Assessment Review Board may conduct a single hearing of two (2) or more appeals related to the same assessment if the matters in each hearing are addressing the same assessable property or substantially the same issues.

The Assessment Review Board has the power to combine hearings in certain circumstances. [Assessment Appeal Regulations](#) section 10.

Power to Determine Procedures

45.(1) The Assessment Review Board has the power to determine its own procedures during a hearing to the extent not inconsistent with this Law.

This section gives the Assessment Review Board the power to determine its own procedures that will apply during a hearing, subject to the provisions set out in the law. [Assessment Law Standards](#) paragraph 10.3(b).

(2) The Assessment Review Board may hold a pre-hearing conference and require the parties to attend the pre-hearing conference.

(3) The Assessment Review Board may adopt written rules of practice and procedure to facilitate the just and timely resolution of the matters before it, provided such rules are

- (a) consistent with this Law;
- (b) approved by Council resolution; and
- (c) made available to the public.

Orders to Attend or Produce Documents

46.(1) At any time before or during a hearing, but before its decision, the Assessment Review Board may make an order requiring a person to

The Assessment Review Board may compel the delivery of documents and the attendance of witnesses.

- (a) attend a hearing to give evidence, or
- (b) produce a document or other thing in the person's possession or control as specified by the Assessment Review Board,

by issuing an Order to Attend/Produce Documents and serving it on the person at least ten (10) days before the person's attendance or the requested document is required at the hearing, as the case may be.

(2) In a case of an emergency, a member of the Assessment Review Board may shorten the time limit for service set out in subsection (1), provided it must not be less than twenty-four (24) hours and provided that the decision to shorten the notice period must be specified in the Order to Attend/Produce Documents.

(3) Where an order is made under paragraph (1)(a), the Assessment Review Board must pay to the person a twenty dollar (\$20) witness fee plus reasonable travel expenses to attend and give evidence before the Assessment Review Board.

(4) A party may request that the Assessment Review Board make an order under subsection (1) to a person specified by the party.

(5) Where a party makes a request under subsection (4),

- (a) the chair must sign and issue an Order to Attend/Produce Documents and the party must serve it on the witness at least ten (10) days before the person's attendance or the requested document is required at the hearing, as the case

may be, or such shorter time limit determined in accordance with subsection (2); and

(b) a party requesting the attendance of a witness must pay a twenty dollar (\$20) witness fee plus reasonable travel expenses to the witness to attend and give evidence before the Assessment Review Board.

(6) The Assessment Review Board may apply to the Court of Quebec for an order directing a person to comply with an order under this section.

Adjournments

47. The Assessment Review Board may

(a) hear all appeals on the same day or may adjourn from time to time until all matters have been heard and determined; and

(b) at any time during a hearing, adjourn the hearing.

Costs

48. The Assessment Review Board may make orders requiring a party

(a) to pay all or part of the costs of another party in respect of the appeal,

(b) to pay all or part of the costs of the Assessment Review Board in respect of the appeal,

where the Assessment Review Board considers the conduct of a party has been improper, vexatious, frivolous or abusive.

Matters before the Courts

49. If a proceeding with respect to liability to pay taxes in respect of assessable property that is the subject of an appeal is brought before a court of competent jurisdiction

(a) before the hearing is to commence, the hearing must be deferred until the matter is decided by the court;

(b) during the hearing, the hearing must be adjourned until the matter is decided by the court; or

The Assessment Review Board may order costs against a party to an appeal where the party's conduct has been improper, vexatious, frivolous or abusive.

This section requires an Assessment Review Board hearing to be deferred where a proceeding respecting the liability to taxation in respect of assessable property is before a court of competent jurisdiction. [Assessment Appeal Regulations](#) section 9.

(c) after the hearing has concluded but before a decision on the appeal is given, the decision must be deferred until the matter is decided by the court.

Withdrawal of Appeal

50.(1) A complainant may withdraw an appeal under this Part by

(a) delivering a Notice of Withdrawal to the assessor if a Notice of Hearing has not been delivered in respect of the appeal; or

(b) delivering a Notice of Withdrawal to the Assessment Review Board if a Notice of Hearing has been delivered in respect of the appeal.

(2) Upon receipt of a Notice of Withdrawal

(a) under paragraph (1)(a), the assessor must advise the chair and the First Nation that the appeal is withdrawn and will not proceed; and

(b) under paragraph (1)(b), the Assessment Review Board must dismiss the appeal and notify the parties that the appeal has been dismissed.

(3) For greater certainty, if a Notice of Hearing has been issued but not delivered, paragraph (1)(b) applies.

Delivery of Decisions

51.(1) The Assessment Review Board must, not more than ninety (90) days after the day on which a hearing is completed, deliver a written decision on the appeal to all parties.

[Note to First Nation: The above wording reflects the approach taken in Quebec legislation. The following alternate wording may be used where the First Nation does not wish to impose a specific timeline:

(1) The Assessment Review Board must, at the earliest opportunity after the day on which a hearing is completed, deliver a written decision on the appeal to all parties.]

These provisions enable a Notice of Withdrawal to be delivered to the assessor if a Notice of Hearing has not been delivered. These provisions can be modified if the First Nation wants to have Notices of Withdrawal delivered to the Assessment Review Board in all circumstances.

The Assessment Review Board is required to deliver a written decision to the parties. [Assessment Appeal Regulations](#) section 12.

Optional wording is provided where the first nation does not wish to impose a specific time limit. [Assessment Appeal Regulations](#) subsection 12(2).

(2) Any person may obtain a copy of a decision of the Assessment Review Board from the tax administrator on request and payment of a fee of _____ dollars (\$_____).

The fee set to obtain a copy of a decision should be a reasonable administrative fee.

(3) The tax administrator may obscure or omit personal information (other than name and address) and financial business information from decisions provided under subsection (2), provided that assessment and property tax information must not be obscured or omitted.

Delivery of Documents under this Part

52.(1) Delivery of a document under this Part may be made personally or by sending it by registered mail, fax or e-mail.

Documents in respect of Assessment Review Board matters must be delivered in accordance with this section. [Assessment Appeal Regulations](#) section 13.

(2) Personal delivery of a document is made

(a) in the case of an individual, by leaving the document with the individual or with a person at least eighteen (18) years of age residing at the individual's place of residence;

(b) in the case of a first nation, by leaving the document with the person apparently in charge, at the time of delivery, of the first nation's administrative office, or with the first nation's legal counsel; and

(c) in the case of a corporation, by leaving the document with the person apparently in charge, at the time of delivery, of the corporation's head office or a branch office, or with an officer or director of the corporation, or with the corporation's legal counsel.

(3) Subject to subsection (4), a document is considered delivered if

(a) delivered personally, at the time that personal delivery is made;

(b) sent by registered mail, on the fifth day after it is mailed;

(c) sent by fax, at the time indicated on the confirmation of transmission; or

(d) sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been opened.

(4) A document delivered on a non-business day or after 17:00 local time on a business day is considered delivered at 09:00 on the next business day.

Appeals

53.(1) An appeal lies to the Court of Quebec from a decision of the Assessment Review Board on a question of law.

There is a right of appeal from a decision of the Assessment Review Board to the Court of Quebec. The law can impose a time limit of not less than thirty days for an appeal to be made.

(2) An appeal under subsection (1) must be made within thirty (30) days after the day on which the decision is delivered under subsection 51(1).

(3) The time limit in subsection (2) is peremptory and may be extended only if a party establishes that they were unable to act.

PART XI GENERAL PROVISIONS

Ownership and Access to Records

54.(1) The records gathered or prepared by the assessor for the preparation or updating of the assessment roll, whether or not they were used for such purpose, are the property of the First Nation.

(2) Except as set out in this Law, no person has a right of access to the records referenced in subsection (1).

(3) A holder of assessable property may examine and take a copy of a record referenced in subsection (1) respecting that assessable property, if that record has been used as the basis for an entry on the assessment roll concerning that assessable property and has been prepared by the assessor.

(4) A person may, in writing, authorize an agent to access the records referenced in subsection (3) on their behalf, and that agent must use such records only for the purposes authorized by the holder.

Disclosure of Information

55. The tax administrator, the assessor, a member of the Assessment Review Board, the secretary or any other person who has custody or control of information or records obtained or created under this Law must not disclose the information or records except

- (a) in the course of administering this Law or performing functions under it;
- (b) in proceedings before the Assessment Review Board, a court of law or pursuant to a court order; or
- (c) in accordance with section 54.

Disclosure for Research Purposes

56. Notwithstanding section 55,

- (a) the tax administrator may disclose information and records to a third party for research purposes, including statistical research, provided the information and records do not contain information in an individually identifiable form or business information in an identifiable form; and
- (b) Council may disclose information and records to a third party for research purposes, including statistical research, in an identifiable form, where
 - (i) where the research cannot reasonably be accomplished unless the information is provided in an identifiable form, and
 - (ii) the third party has signed an agreement with Council to comply with Council's requirements respecting the use, confidentiality and security of the information.

Validity

57.(1) Nothing under this Law must be rendered void or invalid, nor must the liability of any person to pay taxes or amounts levied under the Taxation Law be affected by

- (a) an error or omission in a valuation or a valuation based solely on information in the hands of an assessor or the tax administrator;

This section sets out the circumstances under which information or records obtained or created under the law can be disclosed. [Assessment Law Standards](#) section 11.

This section enables the tax administrator to disclose information for research and statistical purposes provided the information is not in an identifiable form. [Assessment Law Standards](#) section 11.

Council may disclose this information in an identifiable form provided Council takes steps to protect the confidentiality of the information.

This section supports the validity of the law where errors or omissions are made. Although it may be helpful to include this type of provision, First Nations should strive for compliance with the law and not rely on this section to ensure the validity of its actions.

(b) an error or omission in an assessment roll, Assessment Notice, or any notice given under this Law; or

(c) a failure of the First Nation, tax administrator or the assessor to do something within the required time.

(2) No suit, defence or exception founded upon the omission of any formality, even imperative, in any act of the First Nation, the tax administrator or the assessor, shall prevail, unless the omission has caused actual prejudice.

Notices

58.(1) Where in this Law a notice is required to be given by mail or where the method of giving the notice is not otherwise specified, it must be given

This section sets out notice provisions that apply under the law unless otherwise specified.

(a) by mail to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll;

(b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or

(c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll.

(2) Except where otherwise provided in this Law, a notice

(a) given by mail is deemed received on the fifth day after it is posted;

(b) posted on property is deemed received on the second day after it is posted; and

(c) given by personal delivery is deemed received upon delivery.

Interpretation

59.(1) The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining

These general rules apply to the interpretation of the law. The federal [Interpretation Act](#) also applies when interpreting the law.

portions of this Law.

(2) Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.

(3) Words in this Law that are in the singular include the plural, and words in the plural include the singular.

(4) This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

(5) Reference in this Law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.

(6) Headings form no part of the enactment and must be construed as being inserted for convenience of reference only.

[Note to First Nation: Include this repeal provision only if this law is repealing and replacing an existing property assessment law.]

Repeal

60. The _____ *First Nation Property Assessment By-law, 20_____*, as amended, is hereby repealed in its entirety.]

If the First Nation does not have an existing assessment law or by-law then this section is not required.

Force and Effect

61. This Law comes into force and effect on the day after it is approved by the First Nations Tax Commission.

The law comes into force on the day after the Commission approval. The First Nation can specify a later date for the law to come into force by modifying this language.

THIS LAW IS HEREBY DULY ENACTED by Council on the _____ day of _____ , 20___ , at _____ , in the Province of Quebec.

These enactment provisions must be filled in and completed at the time the law is enacted by the Council.

A quorum of Council consists of _____ (___) members of Council.

_____ [Name]

Chief [please spell out name]

_____ [Name]

Councillor [please spell out name]

SCHEDULES:

The sample law contains ten schedules. Each Schedule should be completed as much as possible, including by filling in the name of the First Nation and the references to the First Nation's law where indicated.

If a change is made to the substance of the law, any related schedules should be carefully reviewed and changes made to those schedules as necessary to ensure consistency. Conversely, if a substantive change is made to a schedule, the law should be reviewed and changes made as necessary to ensure consistency.